

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

JUN 29 2012

COURT OF APPEALS  
DIVISION TWO

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

THE STATE OF ARIZONA,	)	2 CA-CR 2012-0170-PR
	)	DEPARTMENT A
Respondent,	)	
	)	<u>MEMORANDUM DECISION</u>
v.	)	Not for Publication
	)	Rule 111, Rules of
ENRIQUE GABRIELLE MENDEZ, also	)	the Supreme Court
known as MELINDA GABRIELLA	)	
VALENZUELA,	)	
	)	
Petitioner.	)	
_____	)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF MARICOPA COUNTY

Cause No. CR2005127547001DT

Honorable Brian K. Ishikawa, Judge

REVIEW DENIED

William G. Montgomery, Maricopa County Attorney  
By Adam Susser

Phoenix  
Attorneys for Respondent

Melinda G. Valenzuela

Florence  
In Propria Persona

ECKERSTROM, Presiding Judge.

¶1 Petitioner Melinda Gabriella Valenzuela<sup>1</sup> seeks review of the trial court’s order dismissing what the court characterized as her seventh petition for post-conviction relief filed pursuant to Rule 32, Ariz. R. Crim. P. The sole issue Valenzuela raises on review is that she is being held beyond the expiration of her sentence. Because Valenzuela has been released from custody, her petition is dismissed as moot.

¶2 Pursuant to a plea agreement, Valenzuela was convicted in 2006 of theft of means of transportation. The trial court sentenced her to a presumptive, 6.5-year prison term. She filed a notice of post-conviction relief, and appointed counsel advised the court she had reviewed the record and was “unable to find any colorable claims for relief to raise on the defendant’s behalf.” Valenzuela subsequently filed numerous pro se petitions for post-conviction relief, all of which the court dismissed. In fact, Valenzuela also has filed at least three additional petitions since the court dismissed the underlying petition.

¶3 In light of the fact that Valenzuela has been released from custody during the pendency of the review of the underlying petition, her claim that she is being held in custody beyond her release date is moot, and we thus deny review and dismiss her petition. *Cf. State v. Hartford*, 145 Ariz. 403, 405, 701 P.2d 1211, 1213 (App. 1985)

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<sup>1</sup>Many of the pleadings in the record reflect Valenzuela’s name as Enrique Mendez, a fact the trial court noted.

("[W]hen an entire sentence has been served prior to consideration of that sole issue on appeal, the validity of its imposition is a moot question.") (emphasis omitted).

/s/ Peter J. Eckerstrom

PETER J. ECKERSTROM, Presiding Judge

CONCURRING:

/s/ Joseph W. Howard

JOSEPH W. HOWARD, Chief Judge

/s/ J. William Brammer, Jr.

J. WILLIAM BRAMMER, JR., Judge